

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
BOTBOL et al.,

Plaintiffs,

-against-

The CITY OF NEW YORK et al.,

Defendants.
----- x

05 CV 1572 (RJS)(JCF)

**DEFENDANTS' LOCAL
CIVIL RULE 56.1
COUNTERSTATEMENT IN
RESPONSE TO
PLAINTIFFS' LOCAL CIVIL
RULE 56.1 STATEMENT**

Defendants hereby respond to Plaintiffs' Rule 56.1 Statement of Undisputed Facts.¹

1. Undisputed.
2. Disputed (Defs. 56.1, ¶¶ 73-82).
3. Disputed. Chief Monahan was caught by surprise when the march began: he

testified at his deposition that while he was speaking with someone, Sgt. O'Connor yelled to him, "Boss, they've started," at which point Chief Monahan "turn[ed] around and [saw] the whole mass of people walking across Church Street to Fulton." (Monahan Depo. (I) 170:25-

¹ In connection with their Motion for Summary Judgment to Dismiss Plaintiffs' False Arrest Claims at Church and Fulton Streets, defendants submitted a Local Rule 56.1 Statement of Undisputed Facts dated October 3, 2011 ("Defs. 56.1") (*Botbol* DE 188). Defendants hereby incorporate Defendants' Rule 56.1 Statement herein in its entirety, and cite to paragraphs in Defendants' 56.1 Statement in both disputing plaintiffs' facts and in making affirmative statements of undisputed facts.

171:7; *see also* O'Connor Depo. 38:24-39:4 (“we weren’t ready for that group that stepped off, I don’t believe that they were given any direction to start”)).²

4. Disputed (Defs. 56.1, ¶¶ 110, 113, 115).

5. Disputed (Defs. 56.1, ¶¶ 124-129). In addition, defendants state as undisputed facts that before police deployed the orange mesh, plaintiff Sidle and the other marchers were blocking pedestrian and vehicular traffic, were repeatedly warned by police that they were blocking pedestrian traffic on the sidewalk, were given an opportunity by police to disperse, and refused to do so before being arrested. (Defs. 56.1, ¶¶ 110-113, 115-116, 121-129).

6. Disputed (Defs. 56.1, ¶¶ 121, 124-129).

Dated: New York, New York
November 3, 2011

Respectfully submitted,

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² All documents and testimony cited herein are annexed to the Declaration of Fred M. Weiler in Opposition to Plaintiffs’ Motions for Summary Judgment (“Weiler Decl.”) being filed in connection with the *Abdell*, *Schiller*, *Macnamara*, *Pagoda*, *Meehan*, and *Botbol* cases.